

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

FARIS ABDUL-MATIYN,

Plaintiff,

- vs -

9:06-CV-1503
(DNH)(DRH)

GOVERNOR GEORGE PATAKI, Governor;
ALLEN, Correction Officer; ROWE, Correction
Officer; VALEZQUEZ, Correction Officer; BENBOW,
Correction Officer; JOHNSON, Sullivan Correctional
Facility Senior Parole Officer; JOHN DOE, I, Sullivan
Correctional Facility Audiologist; JOHN DOE 2, Sullivan
Correctional Facility Counselor; WALSH, Sullivan
Correctional Facility Superintendent; JOHN DOE 3,
Sullivan Correctional Facility Psychiatrist; JOHN
DOE # 4, CNYPC Psychiatrist; ELIZABETH FARNUM,
Doctor; DEBROIZE, Doctor; FORSHEE, Doctor; PETE
HANMER, CNYPC Primary Therapist; TOM MURPHY;
JEFF NOWICKI; SHARON BARBOZA, Director CNYPC
SOTP Program; SAWYER, Director, CNYPC; CNYPC
MEDICAL STAFF; MICHELLE PAYNE, Former CNYPC
Program Rehabilitation Counselor; STEVE CAPOLO;
and LINDA BECKER,

Defendants.

APPEARANCES:

OF COUNSEL:

FARIS ABDUL-MATIYN
Plaintiff, pro se
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HON. ANDREW M. CUOMO
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State of New York
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Farnum, Debroize, Forshee, Hanmer,
Murphy, Nowicki, Barboza, Sawyer,
CNYPC Medical Staff, Capolo, and Becker
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DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Faris Abdul-Matiyn, brought this civil rights action pursuant to 42 U.S.C. § 1983. By a voluminous Report-Recommendation dated February 19, 2008, the Honorable David R. Homer, United States Magistrate Judge, addressed the numerous issues in this matter with the recommendations that:

1. The motion of Walsh and Johnson to sever be denied;
2. The motion of Walsh and Johnson to dismiss be granted as to plaintiff's conspiracy claim against defendant Johnson for failure to intervene, and denied in all other respect;
3. The state defendants' motion to dismiss be granted in all respects as to defendant Sawyer; granted in all respects as to plaintiff's claim for denial of access to the courts, and denied in all other respects;
4. The City defendants' motion to dismiss be denied in all respects;
5. The motion of defendant CNYPC Medical Staff to dismiss be granted; and
6. The complaint be dismissed without prejudice as to defendants George Pataki, Michelle Payne, and John Does I-IV.

No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Homer, the Report-Recommendation is accepted and adopted in its entirety. See 28 U.S.C. 636(b)(1).

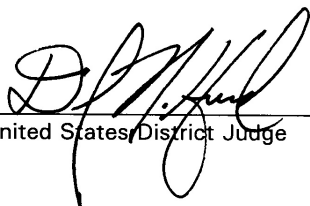
Accordingly, it is

ORDERED that:

1. Defendant Walsh and Johnson's motion to sever is DENIED;
2. Defendant Walsh and Johnson's motion to dismiss is GRANTED with regard to plaintiff's conspiracy claim against defendant Johnson for failure to intervene, and DENIED in all other respects;
3. The state defendants' motion to dismiss is GRANTED in all respects with regard to defendant Sawyer, GRANTED in all respects with regard to plaintiff's claim for denial of access to the courts, and DENIED in all other respects;
4. The City defendants' motion to dismiss is DENIED in all respects;
5. The motion of defendant CNYPC Medical Staff to dismiss is GRANTED; and
6. The complaint is DISMISSED without prejudice with regard to defendants George Pataki, Michelle Payne, and John Does I-IV.
7. The Clerk is directed to enter judgment accordingly, and the remaining defendants are instructed to file and serve answers with regard to the remaining claims on or before April 29, 2008.

IT IS SO ORDERED.

Dated: April 8, 2008.
Utica, New York.


United States District Judge